

REMARKS

This Amendment is being submitted in response to the Office Action dated September 12, 2003. Upon submission of this Amendment, claims 1-15 are pending.

For the reasons set forth herein, all objections and rejections are overcome. Reconsideration is therefore, respectfully requested.

Claims 2, 5 and 10 are objected to because of various informalities. The Examiner's suggestions to correct the informalities asserted in claims 2, 5 and 10 have been adopted.

Claims 3, 10 and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. It is respectfully submitted that claims 3, 10 and 15 have been amended to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1-3, 6-9 and 11-14 are rejected under 35 U.S.C. § 102(e) as being anticipated by Smith et al. It is respectfully submitted that Smith does not teach a single-use hygiene item having an absorbent element for absorbing and retaining bodily fluid and having an analysis device for measuring a composition of the bodily fluid, characterized in that the analysis device is disposed at an area of the hygiene item on which the bodily fluid to be analyzed can impinge and is separated in an essentially fluid-tight manner from the absorbent element by a separating means, so that bodily fluid passed by a user to be analyzed can reach the analysis device directly, but bodily fluid that has penetrated to the absorbent element is retained by the separating means away from the analysis device, the separation occurs in order to prevent the bodily fluid contaminated by the absorbent material from falsifying an analysis of the analysis device, as set forth in claim 1 and claims 2-3, 6-9 and 11-14 depending therefrom.

Smith teaches an analysis element used for testing the pH of a bodily fluid. Bodily fluid is released and flows into a woman's undergarment which is also

the absorbent element in Smith. Concurrently, bodily fluid flows into the analysis element for screening of pH. The same bodily fluid flows into the absorbent element and into the analysis device, as such, material from the absorbent element contaminates the bodily fluid that flows into the analysis device. The separating means in the Smith patent do not separate contaminated bodily fluid (containing absorbent element material) from non-contaminated bodily fluid (excluding absorbent element material) as does the separating means in the present invention.

For these reasons, the present invention as claimed in claim 1 and claims 2-3, 6-9 and 11-14 depending therefrom is submitted not to be anticipated by Smith.

Claim 15 is rejected under 35 U.S.C. § 102(e) as being anticipated by Smith et al. It is respectfully submitted that Smith does not teach an analysis device including a visual display unit visible through a transparent area, the device measuring the composition of bodily fluids that do not contain absorbent element materials in a single-use hygiene item wherein the absorbent element absorbs and retains bodily fluids, as set forth in claim 15. For this reason, the present invention as claimed in claim 15 is submitted not to be anticipated by Smith.

Claims 1-3, 6-8 and 11-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Glaug et al. It is respectfully submitted that Glaug does not teach an invention as set forth in claim 1 and claims 2-3, 6-8 and 11-14 depending therefrom, nor does Glaug teach an invention as set forth in claim 15. For these reasons, the present invention as set forth in claim 1 and the claims depending therefrom and set forth in claim 15 is submitted not to be anticipated by Glaug.

The Examiner asserts "Glaug teaches a toilet training system comprising an absorbent element 24 having an analysis element 22 attached via adhesive layer 70. Analysis element 24 includes a pad 50 having a liquid impermeable separating means 58 and a fluid absorbing and transport layer 56 which may comprise cellulose sponge (fibers). The separating means 58 prevents liquid

that has penetrated into the absorbent element 24 away from analysis element 22 (Figs. 1-11)."

Applicant's attorney respectfully disagrees with the Examiner's assertions for various reasons. First, Glaug does not possess an analysis element. The alleged analysis element 22 is a sensory pad. In depth analysis of the patent discloses that the alleged analysis element 22 "creates a noticeable, distinct feeling during urination," as specified in column four (4).

Glaug calls the alleged analysis element 22 a training aid. The training aid is used to advance a child's toilet training process. It works as such, when children who are not toilet trained inadvertently wet (urinate) themselves, the urine simultaneously flows into the childrens' undergarments and the training pad 22. The training pad 22 is multi-layered and can possess a plurality of sensory elements as disclosed in the patent. i.e. temperature change, retention of moisture or a dimensional change. Once the urine contacts the training pad 22, the respective sensing element behaves according to its characteristics. For example, when the sensing element is a temperature change element, once the urine contacts the training aid 22, the pad will generate a warming or a cooling sensation on the skin of the child. For the foregoing reason, Applicant respectfully submits that the alleged analysis element 22 asserted by the Examiner, is in fact a sensory element and not an analysis element for determining the content, amount or concentration of constituents of bodily fluid.

Secondly, the Examiner asserted Glaug has an "Analysis element includes a pad 50 having a liquid impermeable separating means 58. . . "Applicant respectfully disagrees, the alleged analysis element 22 is a sensory element. Furthermore, the alleged analysis element "sensory element" is the pad 50, the invention designated the sensory element 22 in Figure 1 with a different reference number in Figure 2 in order to illustrate the multiple layers of the sensory element. It is further asserted that Glaug does not possess a liquid impermeable separating means 58 as the Examiner cited. Applicant would like to draw the Examiner's

attention to column 8 where it is disclosed in lines 19-30 that the "support layer 58" as defined in the patent is permeable but could comprise a liquid impermeable material. It is respectfully submitted that the support layer 58 is not a separating means that prevents liquid that has penetrated to the absorbent element from reaching the analysis element, as claimed in the present invention.

For these reasons, the present invention as set forth in claim 1 and the claims depending therefrom and as set forth in claim 15 is submitted not to be anticipated by Glaug.

Claims 1-9, 11-13 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Mims, Jr. It is respectfully submitted that Mims, Jr. does not teach an invention as set forth in claim 1 and claims 2-3, 6-8 and 11-14 depending therefrom, wherein a single-use hygiene item having an absorbent element for retaining bodily fluid and an analysis device for measuring a composition of the bodily fluids, as the present invention teaches. Nor does Mims, Jr. teach an invention as set forth in claim 15 wherein an analysis device is used for measuring the composition of bodily fluids that are not contaminated with absorbent element materials. For these reasons, the present invention as set forth in claim 1 and the claims depending therefrom and set forth in claim 15 is submitted not to be anticipated by Mims, Jr.

Mims, Jr. teaches an impervious garment 10 that encompasses an impervious liner 11, neither the garment nor the liner possess an analysis element which is disclosed in columns 3 and 4. The invention uses a highly absorbent liner 11 for incontinent persons, combining the garment 10 and the highly absorbent liner 11 yields a unit that protects the dignity of the wearer by providing a boxer type short rather than a diaper type rubber pant. The invention does not use an analysis device, in contrast, the present invention uses an analysis device as set forth in claims 1 and the claims depending therefrom, and as set forth in claim 15. As such, the present invention is not anticipated by Mims, Jr. and therefore, patentably defines over Mims, Jr..

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of Mims, Jr. It is respectfully submitted that it would not have been obvious to one of ordinary skill in the art at the time of the invention to combine the liner of Mims, Jr. with the undergarment and article of Smith et al. Furthermore, for the foregoing reasons listed above, combining Mims, Jr. and Smith still does not yield an invention as disclosed in claim 1 and the claims depending therefrom, and as disclosed in claim 15 of the present invention. The Examiner asserts that combining Mims, Jr. and Smith would produce an invention to "further reduce the chance of leakage from a user," which is a different goal that teaches away from the goal of the present invention as set forth in claim 1, the claims depending from claim 1 and claim 15.

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Glaug et al. in view of Mims, Jr. It is respectfully submitted that it would not have been obvious to one of ordinary skill in the art at the time of the invention to combine the liner of Mims, Jr. with the toilet training system of Glaug et al. Furthermore, for the foregoing reasons listed above, combining Glaug et al. and Mims, Jr. still does not yield an invention as disclosed in claim 1 and the claims depending therefrom, and as disclosed in claim 15 of the present invention. The Examiner asserts that combining Glaug et al. and Mims, Jr. would produce an invention "to further reduce the chance of leakage from a user," which is a different goal that teaches away from the goal of the present invention as set forth in claim 1, the claims depending from claim 1, and claim 15.

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mims, Jr. in view of Todd et al. It is respectfully submitted that it would not have been obvious to one of ordinary skill in the art at the time of invention to combine the moisture indicator of Todd et al. with the liner and incontinence garment of Mims, Jr. Furthermore, for the foregoing reasons listed above, combining Mims, Jr. and Todd does not yield an invention as disclosed in claim 1 and the claims depending therefrom, and as disclosed in claim 15 of the present invention. The

Examiner asserts that combining Mims, Jr. and Todd produces an invention "in order to facilitate a user or other person to determine the presence of moisture while minimizing discomfort to the user," which is a different goal that teaches away from the goal of the present invention as defined in claims 1, the claims depending therefrom, and claim 15.

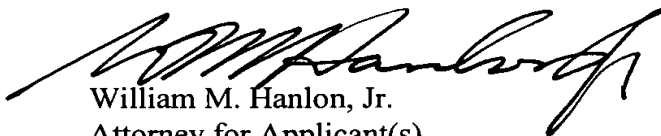
It is respectfully submitted that this Amendment transverses and overcomes all of the Examiner's objections and rejections to the application as originally filed.

It is respectfully submitted that the Amendment places the application in suitable condition for allowance, notice of which is requested.

If the Examiner feels that prosecution of the present application can be expedited by way of an Examiner's Amendment, the Examiner is invited to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE,
WOOD & HELMHOLDT, P.C.

A handwritten signature in black ink, appearing to read 'W. M. Hanlon, Jr.', is written over the typed name.

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Dated: February 12, 2004
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